

of the judicial department to say what the law is.

Does this administration agree that it is emphatically the province and the duty of the judicial department to say what the President's authority is under article II of the Constitution? No. It is the President, according to this Office of Legal Counsel, who decides the limits of his own article II power. The question "whether an action is a lawful exercise of the President's authority under article II" is to be determined by the President's own minions "exercising his constitutional authority under article II." It really makes one wonder: Where do they get these people? You have to be smart, you have to be really bright to get a job within the Office of Legal Counsel. How can people who are so smart be so misguided?

And then it gets worse. Remember point 3:

The Department of Justice is bound by the President's legal determinations.

Let that sink in a minute. "The Department of Justice is bound by the President's legal determinations." We are a nation of laws, not of men. This Nation was founded in rejection of the royalist principle that "the king can do no wrong." Our Attorney General swears an oath to defend the Constitution and the laws of the United States. We are not some banana republic in which the officials all have to kowtow to a supreme leader.

Imagine this in another context. Imagine a general counsel to a major U.S. corporation telling his board of directors: In this company, the counsel's office is bound by the legal determinations of the CEO.

The board ought to throw that lawyer out. That is malpractice and probably even unethical.

Wherever you are, if you are watching this, do me a favor: The next time you are in Washington, DC, take a taxi some evening to the U.S. Department of Justice. Stand outside. Look up at that building shining against the starry night. Look at the sign outside: The United States Department of Justice. Think of the heroes who have served there. Think of the battles fought. Think of the late nights, the brave decisions, the hard work of advancing and protecting our democracy that has been done in those halls. Think about how all that makes you feel.

Then think about this statement:

The Department of Justice is bound by the President's legal determinations.

If you don't feel a difference from what you were feeling a moment ago, well, I guess congratulations because there is probably a job for you somewhere in the Bush administration. Consider the sad irony that this theory was crafted in that very building by the George W. Bush Office of Legal Counsel.

In a nutshell, these three Bush administration legal propositions boil down to this: One, I don't have to follow my own rules, and if I break them, I don't have to tell you that I am

breaking them; two, I get to determine what my own powers are; and three, the Department of Justice doesn't tell me what the law is, I tell the Department of Justice what the law is.

When the Congress of the United States is willing to roll over for an unprincipled President, this is where you end up. We should not even be having this discussion, but here we are. I implore my colleagues on both sides of the aisle: Reject these feverish legal theories. I understand political loyalty; trust me, I do. But let's also be loyal to this great institution we serve in the legislative branch of Government. Let us also be loyal to the Constitution we took an oath to defend from enemies foreign and domestic. And let us be loyal to the American people who live each day under that Constitution's principles and protections.

We simply cannot put the authority to wiretap Americans whenever they step outside America's boundaries under the exclusive control and supervision of the executive branch. We do not allow it when Americans are at home; we should not allow it when they travel abroad.

The principles of congressional legislation and oversight and of judicial approval and review are simple and longstanding, and Americans deserve their protection wherever on God's green Earth they may travel.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

TEFAP EMERGENCY FUNDING

Mr. BROWN. Mr. President, yesterday, I stood on the Senate floor and asked for emergency funding for the Nation's food banks. I asked for that funding because there are massive shortages of food bank supplies, empty shelves, and those shortages place at risk children, the elderly, and working families, people who have lost jobs, people who have had a string of bad luck, and families across this Nation.

I spoke yesterday of Norm, an elderly man in Cleveland, who, after spending his few dollars on rent, on utilities, and medicine, has \$19 left. He needs the Cleveland Food Bank. The Cleveland Food Bank, I would add, was awarded the best food bank in the country last year, but it is running short, as are food banks everywhere in this country.

I spoke yesterday of Christian, who has trained to be a nurse's assistant, and who just gave birth. She is unable to find a job as a nurse's assistant, even though she is well trained to do that. She runs short of food, and she relies on, as does Norm, neighborhood food programs, such as the Cleveland Food Bank and other church groups in greater Cleveland.

In too many cases there is no dinner on the table. In too many cases there is no food at Christmas time. In too many cases there is just not enough food. We are the wealthiest Nation in the world.

Yet we cannot feed our own people. This is an emergency. This is an outrage.

Yesterday, I talked about emergency funding to overcome that shortage. We asked for \$40 million until we pass the farm bill, which will have some dollars in it to provide some supply for these food banks. We found out that food banks are projecting they will run out of food in February, when originally they thought it would last until July.

In case after case, food banks in Cleveland, in Columbus, in Toledo, and Cincinnati, food banks in the Chair's city of Baltimore, and food banks all over this country are running out of food. Grocery stores are contributing a little less this year, and the Government has not done its part.

Yesterday, I talked about some \$40 million in funding to overcome that shortage, and today I want to talk about how to pay for it. We can pay for it through shared sacrifice. The budget for Congress includes firewood for fireplaces in the Capitol, fireplaces, in most cases, that don't get used. When children are hungry, we can give up fireplaces. We can give up some travel and some new technology. We can make easy sacrifices to address a tragic need.

The budget for Federal agencies includes annual buying sprees to exhaust whatever is left in departmental budgets. When children are hungry, buying sprees are offensive. We can sacrifice. We can pay for emergency funding for food banks by putting our heads together and shaving some less necessary spending from our own budgets and that of Federal agencies whose oversight is our responsibility. I am asking that we do that. Food banks need resources. We don't need firewood, we don't need buying sprees, and we can do without some other things. We need to help hungry people.

I am going to propose a package of cuts to pay for an emergency increase in food bank funding. I hope every Member of this body supports me.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 6

Mr. HARKIN. Mr. President, for the benefit of all Senators and those at their desks, right now we are going to try to get back on the farm bill. As you know, an agreement was reached last night between the majority leader and the Republican leader on the process we will be following, so I am going to

propound a unanimous consent request. I hope this has been cleared on both sides. That will basically bring us back to the farm bill. In other words, it will take down the so-called tree that was filled and take down all amendments that are pending, and the bill, as a substitute, will be pending, but then it is open for amendments at that point, for any amendment that has already been filed.

As the agreement was reached last night, there will be 20 amendments on each side. I am telling Senators if they have an amendment to the farm bill, they probably ought to get over here and offer an amendment. Senator CHAMBLISS and I are going to try to work together to try to make an even flow of this, to get the amendments up and reach time agreements and things like that so we can move the farm bill as expeditiously as possible.

On behalf of the majority leader, I ask unanimous consent that the House message on H.R. 6 be returned to the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

Mr. HARKIN. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Reid (for Dorgan/Grassley) amendment No. 3508 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increased funding for certain programs.

Reid amendment No. 3509 (to amendment No. 3508), to change the enactment date.

Reid amendment No. 3510 (to the language proposed to be stricken by amendment No. 3500), to change the enactment date.

Reid amendment No. 3511 (to amendment No. 3510), to change the enactment date.

Motion to commit the bill to the Committee on Agriculture, Nutrition, and Forestry, with instructions to report back forthwith, with Reid amendment No. 3512.

Reid amendment No. 3512 (to the instructions of the motion to commit to the Committee on Agriculture, Nutrition, and Forestry, with instructions), to change the enactment date.

Reid amendment No. 3513 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 3514 (to amendment No. 3513), to change the enactment date.

Mr. HARKIN. Mr. President, I now ask unanimous consent that all pending motions and amendments, except the substitute, be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. HARKIN. As I understand it now, Mr. President, the farm bill is before

us. There are no pending amendments, also, whatsoever?

The ACTING PRESIDENT pro tempore. The Harkin substitute is pending.

Mr. HARKIN. That is what I mean. The substitute is there, but there are no other pending amendments to it.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HARKIN. I yield to my colleague.

Mr. CHAMBLISS. Mr. President, let me say to the chairman that I am very appreciative of the discussions and negotiations we have had ongoing over the last several weeks. He and I have both been very frustrated by the lack of activity on this farm bill. We know very well that we have worked in a bipartisan way to craft a farm bill that is going to be a great benefit to farmers and ranchers across America over the next 5 years. This is a critically important piece of legislation that was passed out of the committee by a unanimous vote, with only one person who was not there saying he would not have voted for it. That is significantly unusual. It is also unusual to complete the markup of a farm bill in a day and a half, which we did. I credit the chairman's leadership for that and the fact that we were able to work in a strong bipartisan way to make sure we got a bill that is not exactly like any of us would want it if we were the sole authors of the bill, but that is the way it is supposed to work in this body.

I do truly want to thank Chairman HARKIN and his staff. I see Mark Halverson sitting over there, who has worked very closely with Martha Scott Poindexter on my staff to clear so many of these almost 300 amendments that popped up over the last 4 weeks. Without the staff doing the work they have done, we simply would not be where we are today.

I also wish to say to Senator CONRAD that I appreciate very much his work—again, in a very bipartisan way—to come together and make sure we get relevant amendments. There are going to be some that are going to be irrelevant that may be considered, but, again, that is part of the way this body works; and to the two leaders for their discussions, their negotiations in allowing us ultimately to get to the point where we have now reached an agreement that we have 20 amendments offered by the Democrats, 20 amendments offered by the Republicans, and over the next several days we are going to debate these amendments, have votes on them, and move ahead with the conference with the House on a farm bill that is desperately needed by our farmers and ranchers. I think at the end of the day it is going to be a farm bill that will have a very positive influence on American agriculture.

I thank the chairman for his cooperative spirit and for the fact that we have been able to come together with this farm bill now, get it to the floor, now get it debated, and you and I are going to work very hard to make sure we get

it done in short order. I look forward to a discussion of the amendments.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. Mr. President, let me thank my friend and colleague and ranking member, Senator CHAMBLISS, first for starting the process. It was under his leadership on the Agriculture Committee that a lot of field hearings were held across the country in preparation for this farm bill. Then, by dint of the elections last year, I then took over as chairman this year, and we worked very closely to continue the great progress Senator CHAMBLISS had made moving the ball forward. We had some bumps along the way, obviously. I shared the frustration of my friend over the last few weeks. But we came out of the committee with a good bill, a good bipartisan bill.

It is a bill that really responded to agricultural needs around the Nation and also responded to nutrition needs. A large part of this bill, over 50 percent of this bill goes for nutrition, food stamps, things like that. We took some great strides in the committee to make sure we updated some of the exemptions, things like that, so people who are on food stamps, people who need that kind of help are not hurt by inflation over the past number of years and that sort of thing.

There are good provisions in this bill on energy, on conservation. I think there is a good, strong safety net for all of our agricultural producers across the country. Obviously, there is a lot in here for specialty crops, kind of a new part of our bill this year, reaching out to get more people involved in our process here—specialty crops all across the country.

There is a lot of good in this farm bill for everyone in this country. I never like to dwell on the past. We have had some problems over the last few weeks, but we are through that. I thank Senator CHAMBLISS and his staff for working with us to get to this point. I think we have a manageable bill now, with 20 amendments on either side. I am hopeful that as we get amendments we will be able to get some reasonable time agreements. I have already spoken to some people about that. Most of the people with amendments are agreeable to certain time limits on their amendments. That, hopefully, will expedite matters also.

We are here, and I hope we are going to start moving the bill. As we know, there are no more votes today, but amendments can be offered and laid down and debated today, and, of course, they will be in the queue for voting when we get back here next Tuesday. If anyone has any amendment, I suggest now might be the time to come forward, on either side, and talk either to Senator CHAMBLISS or to me about getting in the queue to offer those amendment also.

We have a very important bill. Hopefully, we can get it done. I remain hopeful that before the end of next